

State Board of Education Position Statement
on

FREE TEXTBOOKS, MATERIALS AND THE CHARGING OF FEES

Michigan Department of Education

Lansing, Michigan

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STATE BOARD OF EDUCATION

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I N T R O D U C T I O N

At least since 1965, the State Board of Education has been firmly on record as favoring the provision of free textbooks and other consumable materials to the children attending public schools in the state of Michigan. State funds were never available for the purpose, so the historical practice of local school districts to require students to provide -- to varying degrees -- such materials as books, writing materials, athletic equipment of certain types, and a host of other items used in the educational process, continued.

On July 17, 1970, the Michigan Supreme Court ruled, in the case of Bond, et al vs. the Public Schools of Ann Arbor, that any requirement that a child duly enrolled in the public schools furnish materials needed for the provision of education was violative of the Michigan Constitution

The Court's language in so ruling was general but sweeping, and was interpreted by the Michigan Attorney General to apply widely to both required and elective courses in the public schools

Policies and Supplemental Policy Guidelines

The following pages represent State Board of Education interpretations, based on legal counsel, of the application of the "Bond" decision as regards the public schools of Michigan. The interpretations were developed in two parts: Policy Guidelines were originally issued on August 17, 1970, and Supplemental Policy Guidelines were issued originally on December 1, 1970. The two sets of guidelines are combined in this document.

Included as Appendix A is a memorandum opinion from the office of the Attorney General setting forth the legal reasoning which has been applied. This opinion, along with interpretive memoranda dated August 17 and December 1, 1970, was circulated to all public school superintendents and widely to others in Michigan early in the 1970-71 school year.

Subsequent to the issuance of the guidelines, a detailed questionnaire was circulated to Michigan high school districts in an attempt to assess the statewide financial impact of the "Bond" decision. A report on this survey is included here as Appendix B.

John W. Porter

Superintendent of Public Instruction

I. GENERAL FEES

- A. School districts may not make charges for any required or elective course such as for:
 - a. General or registration fees
 - b. Course fees or materials ticket charges
 - c. Textbooks and school supplies
- B. School districts may charge fees for extracurricular activities when students are not graded or evaluated and academic credit is not given, or for any activity in which participation is not required for obtaining a diploma. Provision should be made on a reasonable basis so that students without financial means are not excluded.
- C. Schools can make a reasonable student attendance charge for admittance to school assemblies or other extracurricular activities when students are not graded or evaluated and credit is not given. Attendance at these activities cannot be required if a charge is made for students to attend. If attendance is required of all students at an assembly, then no charge can be made to the students. The services of the professional organization putting on the assembly must then be paid for by the board of education.
- D. Voluntary extracurricular activities, such as attendance at sports, musical concerts, movies and plays, need not be provided free of charge. The cost of this admission or ticket must be borne by the person attending the activity. Consequently, fees (charge for tickets) for participation as a spectator may be charged.

II. TEXTBOOKS AND MATERIALS

- A. School districts may charge for damages or loss of school property when such property has been provided to students without charge.
- B. School districts may require students to place a deposit to cover damage to textbooks, non-consumable materials, and supplies provided free by the school district, for those economically able to pay as determined by school authorities, after consulting with the parent. These deposits must be reasonable and refundable.
- C. School officials may determine the quality and quantity of school supplies such as textbooks, paper and pencils that are reasonable for the use of pupils, and determine the length of time such materials shall be provided. Likewise, pupils may voluntarily bring their own school supplies for any curricular subject.
- D. Textbook deposits must be both reasonable and refundable. It is not considered reasonable by this office or the Office of the Attorney General that deposits be as much as the cost or replacement value of the book. It is believed that "reasonable" means that boards could consider the usability of a textbook as being either four or five years. If the four-year figure were to be used, a deposit of one-fourth of the value would be reasonable. If the five-year term were used, then one-fifth of the value would be reasonable as a deposit. Care should be taken to keep a record of the condition and age of all books so that a reasonable approach can be made in making a determination as to whether more than the usual wear and tear from usage were made on a book. If no more than the usual wear and tear from usage were made on a book, the full refund must be made. Refunds must be made at the end of each school year or during the year if the student leaves the school system. Deposits cannot be kept by the school district until the student goes to another building within the system, graduates, or leaves the system in any other way.
- E. If a school district receives tuition students, the receiving district must provide textbooks on the same terms it would to a resident student. This is true if a sending board of education or the parents or guardian pay the tuition.
- F. Interest received by a school district as a result of book deposits received and banked belong to the school district and can be used for the general operation of the school district. These are considered as "trust" funds.

III. INTERSCHOLASTIC ATHLETICS PARTICIPATION

- A. Fees for participation in interscholastic athletic activities are legally possible if they are extracurricular in nature, students are not required to take them, and no grade or credit is given.

BAND AND ORCHESTRA

- A. If band (or orchestra) is considered as an extracurricular subject, the time consumed while taking this music class cannot be counted toward the 900 or 990 hour requirement. If it is extracurricular, is given outside of the 900 or 990 hours and no credit or grade is given, the local school board is not obligated to provide instruments. On such an arrangement fees may be charged. If band or orchestra is offered as part of the curriculum and a grade and credit is given, then the board is required to provide instruments free, on a reasonable basis, to qualified students. It is our belief that it is reasonable for boards to provide the large or more expensive instruments and a few of the less expensive instruments such as clarinets, trumpets, drums, etc. If a district owns 6 clarinets, as an example, and 12 students appear to be qualified and want to play clarinet, it would seem reasonable to assign 2 students to each clarinet, and for health reasons have each student provide his or her own mouthpiece and reed. It might also be reasonable to have some of these students start on another kind of available instrument.
- B. It is not felt that it is the intent of this decision that a board must consider owning enough instruments to provide each eligible student with an instrument of his or her choice, only that some kind of instrument be available on a reasonable basis to all qualified students. Qualified refers to reasonable student aptitude or ability, not availability of an instrument. No rental charge can be made if credit or grade is given. A reasonable deposit against damage or loss may be required by the school. Parents may purchase, rent, or lease instruments to be used by their children.
- C. In some schools band program begins in the 5th or 6th grade and operates six periods a day. If the total number of clock hours per year clearly exceeds the requirement of the minimum school year, students may be released for 1/2 hour per day within the school day to participate in band. During this release time the other students will remain in class for instruction.

V. TRIPS AND TRAVEL

- A. Entrance fees or ticket admissions that are a part of a required field trip must be paid by the school district. If the trip is "extracurricular" in nature and attendance is not required or credit given, and attendance does not enter into the grade given, the student can be required to pay for the entrance fees or tickets. In neither case can any charge be made for transportation on a school bus to a play, etc. No transportation charge can be made to students on any spectator bus to games, etc.
- B. If a trip (such as a senior trip or one to a city for a play, ball game, etc.) is extracurricular and no credit or grade is given, and a trip is on a chartered bus, train, plane, etc., the school need not pay the transportation.